

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re. PHARMACEUTICAL INDUSTRY)	MDL No. 1456
AVERAGE WHOLESALE PRICE)	Civil Action No. 01-12257-PBS
LITIGATION)	
)	Hon. Patti Saris
THIS DOCUMENT RELATES TO THE)	
AMENDED MASTER CONSOLIDATED)	
CLASS ACTION)	
)	

**FINAL STATUS REPORT OF UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES CONCERNING SUBPOENAS
FOR MEDICARE BENEFICIARY DATA, TRACK 2**

The United States Department of Health and Human Services (HHS), through its undersigned counsel, respectfully submits this final report to the Court concerning the status of the production of Medicare beneficiary information. This report addresses data requested by the plaintiffs' second subpoena served by the plaintiffs on or about August 4, 2006, which sought the names and addresses of all persons who received a "Medicare Summary Notice" for drugs at issue in Track 2.

The Center for Medicare and Medicaid Services (CMS) has completed its work on producing the data requested by the August 4, 2006, subpoena. The responsive information has been encrypted (for security purposes) and copied to CD-ROMs. Once CMS receives payment for the work, it will provide the information to the plaintiffs' representatives.

As noted in an earlier status report, the HHS received a request on behalf of the Track Two defendants for a copy of all material produced in response to the plaintiffs'

August 4, 2006, subpoena. The data includes confidential individually identifiable health information concerning more than eleven million Medicare beneficiaries; there is no apparent reason why the defendants need the information; and the plaintiffs have incurred considerable cost in obtaining it. Accordingly, the HHS is of the view that the defendants should not receive the information, and that, in any event, the defendants' request for the information should be directed to the plaintiffs.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ George B. Henderson, II
George B. Henderson, II
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02110
(617) 748-3272

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above "Final Status Report of United States Department of Health and Human Services Concerning Subpoenas For Medicare Beneficiary Data, Track 2" to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ George B. Henderson, II
George B. Henderson, II

Dated: March 1, 2007